
BellSouth Telecommunications, Inc.

Legal Department

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Patrick W. Turner

General Counsel-South Carolina

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November 12, 2003

The Honorable Bruce Duke
Acting Executive Director
Public Service Commission of SC
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Analysis of Continued Availability of Unbundled Local Switching for
Mass Market Customers Pursuant to the Federal Communication
Commission's Triennial Review Order
(Docket No. 2003-326-C)

Continued Availability of Unbundled High Capacity Loops at Certain
Locations and Unbundled High Capacity Transport on Certain Routes
Pursuant to the Federal Communication Commission's Triennial Review
Order
(Docket No. 2003-327-C)

Dear Mr. Duke:

Enclosed for filing are an original and fifteen copies of BellSouth Telecommunications Inc.'s and Competitive Carriers of the South, Inc.'s ("CompSouth") Joint Motion for Initial Procedural Order in the above-referenced proceedings. I have signed these pleadings on behalf of Rob Tyson, Esq., counsel for CompSouth, with his permission.

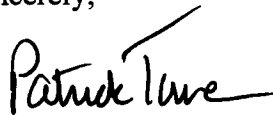
BellSouth and CompSouth have worked closely to develop a Proposed Initial Procedural Order that (a) provides discovery rights to all parties in a manner that accommodates the compressed time frames necessary to meet the nine-month deadline that the FCC has imposed upon the Commission in these proceedings; (b) allows parties to make use of website posting and electronic service to the fullest extent practicable in order to avoid the time and expense associated with filing and serving multiple copies of voluminous documents; and (c) is consistent with proposed procedural orders submitted to other state Commissions within BellSouth's nine-state operating region.

The Honorable Bruce Duke
November 12, 2003
Page 2

BellSouth and CompSouth have shared the substance of the Proposed Initial Procedural Order with counsel for the Commission Staff and with counsel for the Consumer Advocate. Neither BellSouth nor CompSouth is aware that either of these parties has any objections to the proposed order.

By copy of this letter I am serving AT&T, CompSouth, the Consumer Advocate and the Commission Staff with these pleadings as indicated on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick W. Turner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Patrick W. Turner

PWT/nml

Enclosures

cc: F. David Butler, Esquire
Elliott F. Elam, Jr., Esquire
John J. Pringle, Jr., Esquire
Robert E. Tyson, Jr., Esquire

PC Docs #512459

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2003-326-C AND 2003-327-C

IN RE:

Analysis of Continued Availability of)
Unbundled Local Switching for Mass Market)
Customers Pursuant to the Federal)
Communication Commission's Triennial)
Review Order (Docket No. 2003-326-C))
)
And)
)
Continued Availability of Unbundled High)
Capacity Loops at Certain Locations and)
Unbundled High Capacity Transport on)
Certain Routes Pursuant to the Federal)
Communication Commission's Triennial)
Review Order (Docket No. 2003-327-C))
)

JOINT MOTION FOR INITIAL PROCEDURAL ORDER

BellSouth Telecommunications, Inc. ("BellSouth") and Competitive Carriers of the South, Inc. ("CompSouth")¹ respectfully move the Commission to adopt the Proposed Initial Procedural Order that is attached to this Motion as Exhibit A.

In light of activity in similar proceedings in other states in BellSouth's nine-state operating region, BellSouth and CompSouth anticipate voluminous discovery in this

¹ CompSouth is an association of competitive local exchange carriers, and CompSouth's members include: ITC^DeltaCom; MCI; NewSouth Communications Corp.; AT&T; Nuvox Communications, Inc.; ACCESS Integrated Networks, Inc.; Birch Telecom; Talk America; Cinergy Communications Company; Z-Tel Communications, Inc.; Network Telephone Corp.; Momentum Business Solutions, Inc.; Covad Communications Company; KMC Telecom; IDS Telecom, LLC; Access Point Inc.; and Xspedius Management Co., LLC.

docket. BellSouth and CompSouth have worked closely to develop a Proposed Initial Procedural Order that: (a) provides discovery rights to all parties in a manner that accommodates the compressed time frames necessary to meet the nine-month deadline that the FCC has imposed upon the Commission in these proceedings; (b) allows parties to make use of website posting and electronic service to the fullest extent practicable in order to avoid the time and expense associated with filing and serving multiple copies of voluminous documents; and (c) is consistent with proposed procedural orders submitted to other state Commissions within BellSouth's nine-state operating region.

BellSouth and CompSouth have shared the substance of Exhibit A with counsel for the Commission Staff and with counsel for the Consumer Advocate. Neither BellSouth nor CompSouth is aware that either of these parties has any objections to Exhibit A.

This 12th day of November, 2003.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick W. Turner", written over a horizontal line.

Patrick W. Turner
1600 Williams Street, Suite 5200
Columbia, South Carolina 29201
ATTORNEY FOR BELL SOUTH
TELECOMMUNICATIONS, INC.

Robert Tyson has put w/ permission

Robert E. Tyson, Jr.

SOWELL GRAY STEPP & LAFFITTE, LLC

P. O. Box 11449

Columbia, South Carolina 29211

ATTORNEYS FOR COMPETITIVE

CARRIERS OF THE SOUTH, INC.

PC Docs # 512400

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) **CERTIFICATE OF SERVICE**

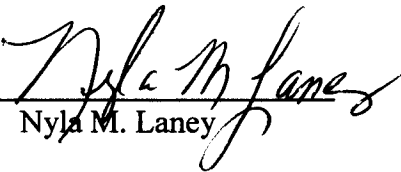
The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s and CompSouth's Motion for Initial Procedural Order in Docket No. 2003-326-C and Docket No. 2003-327-C to be served upon the following this November 12, 2003:

F. David Butler, Esquire
General Counsel
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Columbia, South Carolina 29211
(PSC Staff)
(U.S. Mail and Electronic Mail)

Elliott F. Elam, Jr., Esquire
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John J. Pringle, Jr., Esquire
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Robert E. Tyson, Jr., Esquire
Sowell Gray Stepp & Laffitte
1310 Gadsden Street
Columbia, South Carolina 29211
(CompSouth)
(U. S. Mail and Electronic Mail)



Nyla M. Laney

PC Docs # 512354

EXHIBIT A

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 2003-326-C AND 2003-327-C

IN RE:

Analysis of Continued Availability of)
Unbundled Local Switching for Mass Market)
Customers Pursuant to the Federal)
Communication Commission's Triennial)
Review Order (Docket No. 2003-326-C))
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Certain Routes Pursuant to the Federal)
Communication Commission's Triennial)
Review Order (Docket No. 2003-327-C))
)

PROPOSED INITIAL PROCEDURAL ORDER

This Matter comes before the Public Service Commission of South Carolina ("Commission") upon the Joint Motion of BellSouth Telecommunications, Inc. ("BellSouth") and CompSouth¹ for an Initial Procedural Order. The Commission has determined that the Joint Motion should be granted and hereby adopts the following Initial Procedural Order.

¹ CompSouth is an association of competitive local exchange carriers, and CompSouth's members include: ITC^DeltaCom; MCI; NewSouth Communications Corp.; AT&T; Nuvox Communications, Inc.; ACCESS Integrated Networks, Inc.; Birch Telecom; Talk America; Cinergy Communications Company; Z-Tel Communications, Inc.; Network Telephone Corp.; Momentum Business Solutions, Inc.; Covad Communications Company; KMC Telecom; IDS Telecom, LLC; Access Point, Inc. and Xspedius Management Co., LLC.

(1) Service of Pleadings, Discovery and Responses, Testimony, Briefs and Other Required Filings.

All filings by the Parties to this proceeding and the service of said filings by Parties shall be made as follows:

- (i) All filings required to be made to the Commission shall be made pursuant to the ordinary rules of practice and procedure that apply to matters pending before the Commission, on the dates specified by the Commission and in the manner such filings are ordinarily made; provided, however, that unless the Commission specifically orders otherwise with regard to a particular filing or submission, the parties may hand deliver any required pleading to the Commission by 11 a.m. on the day following the date the filing was due, and provided that service on the other parties was made in accord with the requirements of this order, such filing shall be considered timely filed on the date the filing is due, and in accordance with Commission Rule 103-841.
- (ii) Every party to this proceeding shall provide every other party with an email address of a person who shall be authorized to receive service copies for that party of all filings that have to be filed at the Commission or otherwise served on the parties. If the person authorized to receive service for any party changes, that party shall be responsible for notifying all other parties of such change. For any party who has already intervened in this proceeding and who has not provided such an e-mail address, such party shall do so promptly, and in no event less than 10 days following the date of this order. Failure to provide such an address shall excuse any party from any alleged failure to serve the party who has failed to provide the appropriate e-mail address.
- (iii) For the purpose of this proceeding, where a responsive submission is made, service shall be deemed complete when the person making the filing sends the filing to the appropriate email address. For filings that require a responsive filing from other parties, such as interrogatories, requests for admission and requests for production of documents, the time for complying with the request shall begin when the party to whom the request is made receives the request; provided that if the filing is served electronically and is received after 4 p.m, the filing shall be treated as if it were served and received on the next business day following the date on which the electronic filing was received. The parties are admonished to (1) request "receipt" and "read" indicators for all emails to insure that they are delivered and received in a timely manner and (2) to insure that the person designated to receive service, or someone acting in his or her stead, can regularly access email. Upon agreement of the parties, each party may designate up to three persons to receive service to alleviate any concerns about the availability of someone to receive service.
- (iv) Because some filings, such as testimony, or the responses to filings such as interrogatories or responses to requests for production may be voluminous, the

parties can elect, for non-confidential materials, to create a publicly accessible website where any such filing can be posted. If a party elects to post a responsive filing to this web site, and sends an email with a URL link to that publicly accessible website to the appropriate representatives of the other parties, such a posting shall be considered service of the responsive document. This vehicle may be used for the posting of testimony and responses to discovery, but shall not be used for the filing of matters that require a response from other parties, such as interrogatories, requests for admission or requests for the production of documents.

- (v) The purpose of providing for service in the foregoing ways is to facilitate the exchange of information between the parties so that this proceeding can go forward in a timely and efficient manner. Any disputes as to whether there has been compliance with these requirements should be discussed among the parties and resolved amicably if at all possible. Prior to bringing any dispute regarding these matters to the Commission, the parties will be required to certify that they have met and discussed the dispute, and succinctly detail exactly what the dispute is. The Commission will not entertain disputes involving a question of whether a filing was made timely unless the aggrieved party can demonstrate that it has been substantially prejudiced.
- (vi) Where a party receives an electronic copy of a document, the party can request a paper copy of the document, but the responding party shall have one week after the request is made to furnish the paper copy.

(2) Discovery

- (A) Interrogatories, Requests to Produce Documents, Requests for Admissions.
 - (i) Interrogatories, Requests to Produce Documents and Requests for Admissions and other Discovery may be served requesting state-specific responses and information or, at a party's discretion, seeking responses and information concerning all nine states in the BellSouth region. It shall not be an appropriate or sustainable objection that such discovery seeks information concerning states other than the state in which the discovery is served. Subject to the Confidentiality provisions in Section 3 below and any other evidentiary objections, discovery obtained in other states in the BellSouth region shall be available for use in this proceeding or where appropriate, in appeals from Commission orders to a court of competent jurisdiction or the FCC, subject to normal rules applying to the admission of evidence.
 - (ii) Where requested, the parties shall respond, except as provided below, to Interrogatories, Requests to Produce and Requests for Admissions within 30 calendar days of service.

(iii) If a party believes that a particular request is unduly voluminous or would otherwise require additional time to respond to (and the request is not otherwise objectionable) the parties are admonished to work together to agree on an appropriate time frame for responding to the discovery, given the circumstances that exist at the time. In resolving such issues, the parties are directed to consider whether the requests can be broken into smaller groups, with some groups being responded to more quickly than others, or whether there is some other innovative way to address such issues, without bringing them to the Commission for resolution. Again, should a party seek the Commission's intervention in such a dispute, the complaining party should be prepared to explain in detail why it has been unable to reach a satisfactory resolution, and why it is prejudiced by the solution offered by the non-complaining party.

(iv) Objections to Discovery.

(a) Objections to Interrogatories, Requests to Produce Documents and Requests for Admissions and other Discovery shall be made within 10 calendar days after service. To the extent that the requirements of this Paragraph conflict with the South Carolina Rules of Civil Procedure, the requirements of this Paragraph shall control, and the Commission specifically waives any applicable portions of Commission Rule 103-854 in order that this paragraph establish the proper rules for objections to discovery. Objections to Interrogatories, Requests to Produce Documents and Requests for Admissions and other Discovery may include, but not be limited to:

(1) Legal Objections

(2) Objections to the time required for the production of region-wide discovery responses, in which event the objecting party shall provide a time frame and/or date certain for response to the region-wide discovery. Such Objections may include the fact that certain discovery responses may be voluminous and/or require answers from individuals from multiple states.

(b) Where objections are made pursuant to (2)(A)(iv) (a) (1), the objecting party shall state whether it intends to provide a partial response subject to the objection. Parties shall agree upon a time frame and/or date certain for responses, and the responding party will engage in its best efforts to respond as quickly as possible.

(c) Where objections are made pursuant to (2)(A)(iv) (a) (2), the parties shall agree upon a time frame and/or date certain for responses, and the responding party will engage in its best efforts to respond as quickly as possible.

(v) Pursuant to S.C. Code Ann. §58-3-60, the Commission hereby appoints the Executive Assistant to the Commission or her designee to resolve any discovery disputes that may arise in these proceedings, subject to being overruled by the Commission. Where the parties are unable to resolve a discovery dispute as outlined in the proceeding sections, the parties shall seek expedited rulings on any discovery dispute, and the Executive Assistant to the Commission or her designee shall resolve any such dispute expeditiously.

(B) Depositions. For good cause shown and in recognition that waiver is in the public interest, the Commission hereby waives the provisions of Commission Rule 103-852 requiring that parties must ask the Commission for leave to take the testimony of any witness.

(i) Depositions of employees, consultants, contractors and agents may be taken pursuant to the South Carolina Rules of Civil Procedure, including any objections that may be raised. To the extent that Commission Rule 103-852 does not allow for the deposition of persons other than party witnesses, that rule is hereby waived.

(ii) Depositions of persons whom the parties will sponsor as witnesses in the above-styled Docket shall be limited as follows, after testimony is filed:

(a) Any party may depose a person who files testimony, subject to (2)(B)(ii)(b) below, after the filing of:

(1) direct testimony; and

(2) rebuttal testimony; and

(3) surrebuttal testimony

(b) Once a witness has been deposed regarding such testimony in any state in the BellSouth region, that witness may only be deposed again (1) upon the request of the staff of the Commission, or if there is participation by a public agency such as a consumer advocate or the Attorney General, upon request by such public agency, or (2) any party to this proceeding that was not a party to the proceeding in which the deposition was taken, or (3) by any party, if the testimony offered by the witness contains state specific information which is different from previous testimony filed by the witness, in which case the deposition will be limited to questions about the state specific material and related items.

(c) Should a witnesses' testimony in this state change materially, other than by reason of the inclusion of state specific material discussed in

(b) above, the witness may be deposed again, but only in connection with the testimony that has changed.

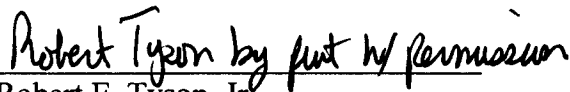
- (d) The purpose of these deposition requirements is to conserve the resources of the parties, and to encourage the parties to work jointly and cooperatively to conduct necessary discovery.
- (e) If the parties have a dispute regarding the taking of depositions in any particular situation, the parties are admonished to work together to resolve such differences, and if those differences cannot be reconciled, the parties should be prepared to present a very brief explanation of the dispute and the aggrieved party should be prepared to demonstrate how it is prejudiced by its failure to comply with the requests or objections of the opposing party.

This Order shall remain in full force and effect until further Order of the Commission.

Respectfully submitted,



Patrick W. Turner
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ATTORNEY FOR BELL SOUTH
TELECOMMUNICATIONS, INC.



Robert E. Tyson, Jr.
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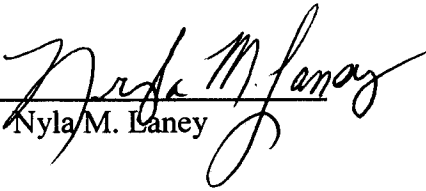
The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth Telecommunications, Inc.'s and CompSouth's Proposed Initial Procedural Order in Docket No. 2003-326-C and Docket No. 2003-327-C to be served upon the following this November 12, 2003:

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Nyla M. Laney

PC Docs # 512354